

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte GARY STEPHENSON

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MAILED

JUN 01 2007

PAT. & T.M OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Application No. 09/489,310

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received at the Board of Patent Appeals and Interferences on April 2, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

On February 15, 2007, appellant filed a reply brief in response to the Examiner's answer mailed November 16, 2006. However, there is no indication on the record whether or not the examiner has responded to the reply brief. Section § 1208.03 of

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the Manual of Patent Examining Procedure (8<sup>th</sup> ed., Aug. 2001)  
states:

[A]ppellant may file a reply brief as a matter of right within 2 months from the mailing date of the examiner's answer. . . . The primary must then either: (A) acknowledge receipt and entry of the reply brief by using form paragraph 12.47 on form PTOL-90; or (B) reopen prosecution to respond to the reply brief. See MPEP § 1208.02 [emphasis added].

Accordingly, it is

ORDERED: that this application be returned to the examiner: 1) for proper response to the reply brief filed February 15, 2007; and 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

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